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**In the Supreme Court of the United States**

**OCTOBER TERM, 1946**

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**No. 154**

**ATLANTIC MEAT COMPANY, INC., PETITIONER**

**v.**

**THE RECONSTRUCTION FINANCE CORPORATION**

---

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES EMERGENCY COURT OF APPEALS**

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**BRIEF FOR THE RESPONDENT IN OPPOSITION**

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**OPINION BELOW**

The opinion of the Emergency Court of Appeals (R. 33-36) is not reported.

**JURISDICTION**

The judgment of the Emergency Court of Appeals was entered on May 8, 1946 (R. 36-37). The petition for certiorari was filed June 7, 1946. The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925, and Section 204 (d) of the Emergency Price Control Act.

**QUESTIONS PRESENTED**

1. Whether the Emergency Court of Appeals has jurisdiction over a proceeding to review the denial of a subsidy by Defense Supplies Corporation. This question involves the subsidiary question whether the subsidy regulation was issued pursuant to Section 2 (e) of the Emergency Price Control Act.

2. Whether the Defense Supplies Corporation had authority to promulgate a regulation providing that slaughterers owned or controlled by a "processor or purveyor of meat" are not entitled to the subsidy, and to hold that under the regulations a slaughterer owned and controlled by a company which also owned and controlled a processor was not entitled to the subsidy.

**STATUTES, REGULATIONS AND EXECUTIVE ORDER INVOLVED**

The pertinent provisions of the Emergency Price Control Act (56 Stat. 23), as amended (50 U. S. C. App., Supp. V, Secs. 901, *et seq.*) and of the controlling directives and regulations are set forth in the Appendices, *infra*, pp. 16-33.

**STATEMENT**

In June 1943, as part of the President's hold-the-line policy (E. O. 9328, 8 F. R. 4681), the maximum prices of carcass beef and wholesale cuts of beef, were reduced approximately ten (10) percent by order of the Economic Stabilization Director (Amendment No. 15 to RMPR 169, 8

F. R. 7675). This reduction was compensated for by subsidy payments made by Defense Supplies Corporation (later Reconstruction Finance Corporation) under its Regulation No. 3 (8 F. R. 10826).

This subsidy was found insufficient adequately to compensate non-processing slaughterers who derived no income apart from the sale of non-processed beef.

The Director of Economic Stabilization, by his directive of October 25, 1943 (8 F. R. 14641), therefore provided for an additional subsidy of eighty (80) cents per cwt. to non-processing slaughterers of beef. It is this subsidy which is involved in this case. The directive stated that "6. Defense Supplies Corporation is directed to amend Regulation No. 3 (Live-stock Slaughter Payments) in accordance with this Directive". Five days later, pursuant to this Directive, Defense Supplies Corporation amended its subsidy regulation. 9 F. R. 1820. The pertinent portions of this amendment read as follows:

Section 14. Extra compensation for non-processing slaughterers of beef.

(a) Definitions.

(1) "Non-processing slaughterers of beef" means an unaffiliated slaughterer as hereinafter defined who, during six consecutive months of 1942, sold, and who currently sells, 98% or more, measured in dressed carcass weight, of the total beef

produced from cattle slaughtered by him in all his establishments, in the form of carcasses, wholesale cuts, boneless beef or ground beef.

(2) "Unaffiliated slaughterer" means a slaughterer who does not own or control a processor or purveyor of meat, and who is not owned or controlled by a processor or purveyor of meat. "Unaffiliated slaughterer" shall not include any institution, representative or agency of Federal, State, or local governments.

(3) "Processor or purveyor of meat" means a person who processes fresh beef or sells or dispenses fresh or processed meat or products containing meat, at wholesale or at retail, or in a hotel, restaurant or other eating establishment.

(4) "Own or control" means to own or control directly or indirectly a partnership equity or in excess of ten percent of any class of outstanding stock or to have made loans or advances in excess of five percent of the other persons' monthly sales.

The petitioner demanded payment of \$516,-809.99 claimed to be due for slaughter during the period November 1, 1943, to February 15, 1945, under this amendment (R. 11). The claim was denied because petitioner from November 1, 1943, to March 31, 1944, was owned and controlled by General Foods Corporation, which likewise owned and controlled Batchelder & Snyder Co., Inc., a processor and purveyor of meat, and after March



31, 1944, was owned and controlled by Batchelder & Snyder Co., Inc. (R. 12-13).

Petitioner thereupon filed a complaint in the Emergency Court of Appeals praying that the amendment be set aside (R. 14-17). The respondent moved to dismiss the complaint for lack of jurisdiction (R. 21). The motion was denied (R. 31), and on May 8, 1946 the court sustained the validity of the definition excluding slaughterers affiliated with processors and purveyors, and held that it applied when the nonprocessing slaughterer and a processor "are owned and controlled by a common parent" (R. 33-36).

#### ARGUMENT

##### 1. THE JURISDICTION OF THE EMERGENCY COURT

(a) In filing its complaint petitioner invoked the jurisdiction of the Emergency Court of Appeals. As in several similar cases Defense Supplies Corporation moved to dismiss the complaint on the ground that the Emergency Court of Appeals had no jurisdiction to determine the validity of its orders. In *Illinois Packing Co. v. Bowles*, 147 F. 2d 554, and *Illinois Packing Co. v. Snyder*, 151 F. 2d 337, the Emergency Court held that it had jurisdiction over all regulations and orders issued under Section 2 of the Price Control Act and, that the Defense Supplies Corporation's regulation was issued under Section 2 (e). Defense Supplies Corporation has acquiesced in this deci-

sion. Now, having lost its case on the merits, petitioner urges for the first time (see R. 2-4, 14-17) that the Emergency Court of Appeals had no jurisdiction to hear its complaint. If it prevailed in its contention, the consequence would still be affirmance of the decision below dismissing the complaint though on another ground. We do not propose to argue here the general authority of the Emergency Court over subsidy regulations, inasmuch as that does not seem to be challenged by petitioner. The Court is respectfully referred to the two *Illinois Packing* opinions for a discussion of that question.

Although apparently not attacking the reasoning of those opinions, which hold that the Emergency Court has jurisdiction over subsidy orders issued under Section 2 (e), petitioner contends that the Emergency Court lacked jurisdiction in this case because it does not appear that the regulation issued by Defense Supplies Corporation was approved by the Federal Loan Administrator (who was chairman of Defense Supplies Corporation), as required by Section 2 (e) for subsidies on materials found by the President to be critical, a class which includes meat. Whether the regulation was properly approved by the Federal Loan Administrator would affect its validity under the Price Control Act. But when a regulation purports to be issued under Section 2 (e), its validity

under that section is for the Emergency Court itself to decide. Clearly a defect in the procedure by which the order was issued would not affect the jurisdiction of the Emergency Court to hear the case. Since the issue does not run to the jurisdiction of the Emergency Court, and since the point was not presented to or passed on by the court below in this case,<sup>1</sup> petitioner is not entitled to raise it for the first time here.

It may be pointed out that Section 2 of Public Law No. 88, 79th Cong., 1st Sess. (June 23, 1945) indicates clearly that the Emergency Court of Appeals is regarded as a proper forum for the review of determinations of the Defense Supplies

<sup>1</sup> Petitioner in No. 147, *Gibbs v. R. F. O.* also has not raised this issue, but the Emergency Court dealt with it in its opinion in that case as follows (R. 57):

"It is true that Defense Supplies Corporation is merely a paying or disbursing agent, and that authority to formulate a program of meat subsidies is vested in the Federal Loan Administrator, subject to the overriding authority of the Director of Economic Stabilization. Amendment No. 2, containing the affiliation provisions, was issued by the Defense Supplies Corporation. We are not at liberty to consider a possible technical objection that the conditions of eligibility for the special subsidy, as prescribed in Amendment No. 2, should have been traced to a determination made by the Federal Loan Administrator, for no such objection was contained in the protest. In addition, it would be highly unrealistic to suppose that Defense Supplies Corporation, which falls under the supervision and control of the Federal Loan Administrator (53 Stat. 1429-30), went off on a frolic of its own in this matter."



Corporation. The statutory provision is set forth in the margin.<sup>2</sup>

In apparent recognition of the fact that its criticism of the regulation as not having been approved by the Federal Loan Administrator would apply equally to the Directive and the portion of the same regulation (paragraph (d), see *infra*, pp. 27-28) authorizing the subsidy it seeks to recover, petitioner suggests (p. 10) that the subsidy was not authorized under Section 2 of the Price Control Act but under Executive Orders No. 9250 (7 F. R. 7871) and No. 9328 (8 F. R. 4681), which were issued by the President under the authority con-

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<sup>2</sup> Any slaughterer who heretofore or hereafter shall have received extra compensation payments under Livestock Slaughter Payments Regulation Numbered 3 of Defense Supplies Corporation (adopted pursuant to directives of the Director of Economic Stabilization) when such slaughterer was not in a class eligible for such extra compensation payments, shall be relieved, in whole or in part, of obligation to repay the amount thereof and shall be entitled to receive, in whole or in part, the amount of such extra compensation payments repaid by such slaughterer to, or withheld by Defense Supplies Corporation on account of such extra compensation payments, to the extent that it is determined by the Director of Economic Stabilization, or any agency of the Government authorized by him, that it would be inequitable for Defense Supplies Corporation to require repayment by such slaughterer or to retain the amounts so repaid or withheld, provided such Director or Agency also determines that such slaughterer believed reasonably and in good faith that he was eligible to receive such extra compensation payments: *Provided*, That any determination by such Director or agency under this section shall be reviewable by the Emergency Court of Appeals under such rules as such court may prescribe."

ferred upon him by the Stabilization Act of 1942 (56 Stat. 765, 50 U. S. C. App., Supp. V, Secs. 961-970). These orders do no more than empower the Economic Stabilization Director to direct other Federal agencies as to policy within their statutory authority. Insofar as subsidies are concerned, Order 9250 provides merely that the Director "may direct any Federal department or agency \* \* \* to use its authority to subsidize" in specified circumstances. 7 F. R. 7873. The Order further provides that "the administration of activities related to the national economic policy shall remain with the departments and agencies now responsible for such activities, but such administration shall conform to the directives on policy issued by the Director". 7 F. R. 7871. Neither the Stabilization Act nor Executive Order 9328 contain anything on the subject. Section 2 (e) of the Price Control Act thus remains the sole statutory authority for the subsidies, and since neither the Directive of October 25, 1943, nor the Defense Supplies amendment of October 30, 1943, which jointly and severally contain the only authority for the subsidy, on their face were approved by the Federal Loan Administrator, acceptance of petitioners' argument as to the invalidity of the amendment would completely defeat its claim to the subsidy.

(b) Petitioner also argues that the Emergency Court lacked jurisdiction because Section 2 (m)

of the Price Control Act, as amended, provides that no agency shall impose unlawful conditions upon the payment of the subsidies authorized under the Act, and that persons aggrieved by agency action in this respect may petition the district courts for relief. Petitioner contends (p. 11), that the imposition of the condition that "a non-processing slaughterer becomes disentitled to the special subsidy because it is under common control with a 'processor'" is not authorized by the statute or the lawful regulations, and apparently that therefore the district court rather than the Emergency Court has jurisdiction over the case. This contention too, we believe, goes to the validity or lawfulness of the regulation, which we consider below, and not to the jurisdiction of the Emergency Court. The opinion of the Emergency Court in *Illinois Packing Co. v. Bowles*, 147 F. 2d 554, at 559-560, deals specifically with the contention that Section 2 (m) withdraws jurisdiction from the Emergency Court, and holds that it does not. Public Law No. 88, referred to above, *supra*, p. 8, would appear to confirm the Emergency Court's view that it has authority to review orders relating to subsidies.

## 2. THE VALIDITY OF THE REGULATION

(a) Petitioner's primary argument as to the invalidity of the regulation limiting the additional subsidy for non-processing slaughterers to those not affiliated with processors is that it is not

in harmony with the Directive issued by the Director of the Office of Economic Stabilization. Petitioner reads that Directive as self-sufficient and not permitting further implementation, and also contends that the regulation issued by the Defense Supplies Corporation is not consistent with the policy enunciated in the Directive.

That the Directive empowered the Defense Supplies Corporation to issue a regulation carrying out the policy of the Directive in more detail appears from its face. Paragraph 6 of the Directive stated that "Defense Supplies Corporation is directed to amend Regulation No. 3 \* \* \* in accordance with this Directive". This in itself suggests that Defense Supplies Corporation was intended to amplify for administrative purposes the brief provisions of the Directive. In view of the fact that the Director has not himself objected to or overridden the Defense Supplies regulation, it should be presumed that he regarded it as authorized by his Directive. And even apart from the Directive itself, the Defense Supplies Corporation, acting on behalf of the Federal Loan Administrator, had authority to determine the conditions on which subsidies were to be paid, so long as its determination is consistent with the controlling directives on policy of the Office of Economic Stabilization. See Section 2 (e).

The regulation's definition of a "non-processing slaughterer" was entirely consistent with the Directive of the Office of Economic Stabilization.

Clearly the policy of the Directive that the additional subsidy be paid only to slaughterers who are not also processors would be evaded and frustrated if division of a single business enterprise into separate corporate entities enabled a slaughtering subsidiary to obtain the subsidy. The advantages which flow from a combined slaughtering and processing operation, upon which the need for an additional subsidy for non-processors was predicated, obviously exist whether the operations are carried on by a single corporation or by affiliated organizations. Thus, the regulation defining the slaughterers entitled to the subsidy in the manner which would exclude those affiliated with processing corporations not only was in harmony with, but was necessary to effectuate the purposes of, the controlling Directive.

(b) Petitioner also contends that it is an "un-affiliated slaughterer" within the meaning of the regulation. That phrase is defined to mean "a slaughterer who does not own or control a processor or purveyor of meat, and who is not owned or controlled by a processor or purveyor of meat." Since March 31, 1944, the petitioner has been owned and controlled by Batchelder & Snyder, Inc., a processor or purveyor of meat. Before that date the petitioner and Batchelder & Snyder were both owned and controlled by General Foods Corporation (R. 13). It is petitioner's contention that during the period in which both petitioner and the processor were owned and controlled by



the same corporation, petitioner was an "unaffiliated slaughterer" inasmuch as during that period petitioner neither owned nor was owned by Batchelder & Snyder.

The regulation, however, contains its own definition of "own or control". This is defined, *inter alia*, to mean "to own or control directly or indirectly \* \* \* in excess of ten percent of any class of outstanding stock" in Section 14 (a) (4) set forth *supra*, p. 4. The reference to indirect ownership indicates that the regulation was not to be read too narrowly. General Foods, which owned all of petitioner's stock, and Batchelder & Snyder, its subsidiary processing corporation, can be regarded as a single entity owning petitioner's stock. Such a construction is obviously necessary if the purpose of the subsidy for nonprocessing slaughterers is not to be defeated by a particular arrangement of affiliated corporations. As the Emergency Court said in respect to petitioner's argument (R. 36):

This we regard as a much too narrow reading of the regulation. The situation prior to April 3, 1944, was in substance no different from the situation after that date; in either case, payment of the subsidy to complainant would inure to the benefit of a person not within the group intended by the Directive of October 25, 1943, to be the object of special relief. In the early period, in substance if not in form, General Foods Corporation (which owned complainant) was itself in the hotel supply

house business through its subsidiary corporation Batchelder & Snyder, and thus was a "processor of meat" within the meaning of the subsidy regulation.

(c) Petitioner also argues that the subsidy regulation is unlawful under both the statute and the due process clause inasmuch as the combined operations of petitioner and its affiliate were unprofitable between 1943 and 1945. Certainly neither the Constitution nor the statute require that a producer be given a subsidy enabling his business to operate profitably. If, as a result of the combined effect of the maximum price ceiling imposed by the Price Administrator and the subsidy provisions, petitioner is not being lawfully treated, his remedy is to attack the price ceiling which is binding upon him rather than the subsidy regulation. *Cf. Heinz v. Bowles*, 149 F. 2d 277, 150 F. 2d 546 (E. C. A.); *Armour & Co. v. Bowles*, 148 F. 2d 529 (E. C. A.), certiorari denied, 325 U. S. 871.

3. The meat subsidy program was terminated June 30, 1946, by the expiration of the Emergency Price Control Act. Under the Price Control Extension Act of 1946 (Pub. L. 548, 79th Cong., 2d Sess., approved July 25, 1946) a new meat subsidy may not be instituted prior to August 21, 1946, nor without a determination by a Price Decontrol Board. Whether the problems raised by this case would be presented by

any new subsidy program, if one is ever adopted, is to be doubted. Although the new legislation does not render moot controversies such as this, which involve the right of petitioner to payments for past operations, the problem is not of sufficient present importance to warrant further review.

# CONCLUSION

Accordingly it is respectfully submitted that the petition for certiorari should be denied.

✓ J. HOWARD McGRATH,  
*Solicitor General.*

✓ ROBERT L. STERN,  
*Special Assistant to  
the Attorney General.*

✓ JOHN D. GOODLOE,  
*General Counsel,*

JAMES L. DOUGHERTY,  
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JOHN C. ERICKSON,  
*Counsel,*

*Reconstruction Finance Corporation.*

JULY 1946.

## APPENDIX A

The pertinent provisions of Section 2 (e) of the Emergency Price Control Act of 1942, 56 Stat. 26, 50 U. S. C. App., Supp. V, Sec. 902 (e), reads as follows:

\* \* \* \* \*

(e) Whenever the Administrator determines that the maximum necessary production of any commodity is not being obtained or may not be obtained during the ensuing year, he may, on behalf of the United States, without regard to the provisions of law requiring competitive bidding, buy or sell at public or private sale, or store or use, such commodity in such quantities and in such manner and upon such terms and conditions as he determines to be necessary to obtain the maximum necessary production thereof or otherwise to supply the demand therefor, or to make subsidy payments to domestic producers of such commodity in such amounts and in such manner and upon such terms and conditions as he determines to be necessary to obtain the maximum necessary production thereof: *Provided*, That in the case of any commodity which has heretofore or may hereafter be defined as a strategic or critical material by the President pursuant to section 5d of the Reconstruction Finance Corporation Act, as amended, such determinations shall be made by the Federal Loan Administrator, with the approval of the President, and, notwithstanding any other provision of this Act or of any existing law, such commodity may be bought or sold, or stored

or used, and such subsidy payments to domestic producers thereof may be paid, only by corporations created or organized pursuant to such section 5d; except that in the case of the sale of any commodity by any such corporation, the sale price therefor shall not exceed any maximum price established pursuant to subsection (a) of this section which is applicable to such commodity at the time of sale or delivery, but such sale price may be below such maximum price or below the purchase price of such commodity, and the Administrator may make recommendations with respect to the buying or selling, or storage or use, of any such commodity: *Provided, however,* That, with the exception of any commodity which prior to the effective date of his amendatory proviso has been defined as a strategic or critical material pursuant to section 5d of the Reconstruction Finance Corporation Act, as amended, no agricultural commodity or commodity manufactured or processed in whole or substantial part from any agricultural commodity intended to be used as food for human consumption, shall, for the purposes of this subsection, be defined as a strategic or critical material pursuant to the provisions of said section 5d of the Reconstruction Finance Corporation Act, as amended. In any case in which a commodity is domestically produced, the powers granted to the Administrator by this subsection shall be exercised with respect to importations of such commodity only to the extent that, in the judgment of the Administrator, the domestic production of the commodity is not sufficient to satisfy the demand therefor. \* \* \*

\* \* \* \* \*



## APPENDIX B

Section 2 (m) of the Emergency Price Control Act, as added by Section 102 of the Stabilization Extension Act of 1944, 58 Stat. 632, 50 U. S. C. App., Supp. V, Sec. 902 (m) reads as follows:

\* \* \* \* \*

(m) No agency, department, officer, or employee of the Government, in the payment of sums authorized by this or other Acts of Congress relating to the production or sale of agricultural commodities, or in contracts for the purchase of any such commodities by the Government or any department or agency thereof, or in any allocation of materials or facilities, or in fixing quotas for the production or sale of any such commodities, shall impose any conditions or penalties not authorized by the provisions of the Act or Acts, or lawful regulations issued thereunder, under which such sums are authorized, such contracts are made, materials and facilities allocated, or quotas for the production or sale of any such commodities are imposed. Any person aggrieved by any action of any agency, department, officer, or employee of the Government contrary to the provisions hereof, or by the failure to act of any such agency, department, officer, or employee, may petition the district court of the district in which he resides or has his place of business for an order or a declaratory judgment to determine whether any such action or failure to act is in conformity with the provisions hereof and otherwise lawful;

and the court shall have jurisdiction to grant appropriate relief. The provisions of the Judicial Code as to monetary amount involved necessary to give jurisdiction to a district court shall not be applicable in any such case.

## APPENDIX C

Section 2 of the Act of June 23, 1945, Public Law 88, 79th Cong., 1st sess., reads as follows:

Any slaughterer who heretofore or hereafter shall have received extra compensation payments under Livestock Slaughter Payments Regulation Numbered 3 of Defense Supplies Corporation (adopted pursuant to directives of the Director of Economic Stabilization) when such slaughterer was not in a class eligible for such extra compensation payments, shall be relieved, in whole or in part, of obligation to repay the amount thereof and shall be entitled to receive, in whole or in part, the amount of such extra compensation payments repaid by such slaughterer to, or withheld by Defense Supplies Corporation on account of such extra compensation payments, to the extent that it is determined by the Director of Economic Stabilization, or any agency of the Government authorized by him, that it would be inequitable for Defense Supplies Corporation to require repayment by such slaughterer or to retain the amounts so repaid or withheld, provided such Director or agency also determines that such slaughterer believed reasonably and in good faith that he was eligible to receive such extra compensation payments: *Provided*, That any determination by such Director or agency under this section shall be reviewable by the Emergency Court of Appeals under such rules as such court may prescribe.

## APPENDIX D

The directive of the Economic Stabilization Director of October 25, 1943, 8 F. R. 14641, reads as follows:

### OFFICE OF ECONOMIC STABILIZATION

#### LIVESTOCK SLAUGHTER PAYMENTS

This directive is issued pursuant to the authority vested in me by the Act of October 2, 1942, entitled "An Act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation and for other purposes," and by Executive Order No. 9250, October 3, 1942, and Executive Order No. 9328, April 8, 1943.

1. The purposes of this directive are to insure:

(a) That the livestock slaughter payments made with respect to cattle under Regulation No. 3 of Defense Supplies Corporation (Livestock Slaughter Payments) inure to the benefit of cattle producers;

(b) That such payments are made only to the extent necessary to maintain live cattle prices within a range consistent with the purposes of the stabilization and production programs;

(c) That such prices do not impose undue hardship upon any group of slaughterers whose output is needed to obtain the maximum necessary production; and

(d) That the available supplies of live cattle are equitably distributed among slaughterers and feeders.

2. It is hereby determined that the stabilization and production programs require the maintenance of live cattle prices within the following ranges:

Grade:	Price (per cwt., at Chicago)
Choice -----	\$15.00 to \$16.00
Good -----	14.25 to 15.25
Medium -----	12.00 to 13.00
Common -----	10.00 to 11.00
Cutter and canner -----	7.45 to 8.45
Bologna bulls -----	7.45 to 8.45

The price Administrator and the War Food Administrator are directed to determine and publish, and to certify to Defense Supplies Corporation, live cattle prices at points other than Chicago which are in line with the foregoing Chicago prices.

3. There shall be deducted from the livestock slaughter payments hereafter made to any slaughterer under Regulation No. 3 of Defense Supplies Corporation (Livestock Slaughter Payments) the net amount, if any, by which the total of the prices paid by such slaughterer for all live cattle purchased during the month for which the payments are made either fell short of the total amount he would have paid at the lower of the applicable prices, or exceeded the total amount he would have paid at the higher of the applicable prices, set forth or provided for in paragraph 2, above.

The grade of live animals purchased by a slaughterer shall be determined on the basis of the carcass grade. The Price Administrator and the War Food Administrator are directed to determine and publish, and to certify to Defense Supplies Corporation, conversion factors for determining the dressed weight equivalents of live weights.



In the case of slaughterers who operate more than one plant, the amount of the payments and deductions to be made shall be determined separately for each plant.

4. The livestock slaughter payments hereafter made with respect to cattle under Regulation No. 3 of Defense Supplies Corporation (Livestock Slaughter Payments) to any slaughterer whose beef carcasses are graded by an official grader of the Food Distribution Administration shall be revised and computed on a grade basis as follows:

Grade:	<i>Payments per live cwt.</i>
Choice .....	\$1.00
Good .....	1.45
Medium .....	.90
Common .....	.50
Cutter and Canner .....	.50
Bologna Bull .....	.50

Livestock slaughter payments made to slaughterers whose beef carcasses are not graded by an official grader of the Food Distribution Administration shall remain unchanged.

5. Slaughterers who during the year 1942, or a representative portion thereof, sold and who currently sell 98% or more of the total dressed carcass weight of cattle slaughtered by them in the form of carcasses, wholesale cuts, frozen boneless beef (Army specifications) (carcass equivalent) or ground beef, shall be paid in addition to the payments authorized by Regulation No. 3 of Defense Supplies Corporation (Livestock Slaughter Payments), the amount of \$0.80 per cwt. of cattle slaughtered during the month for which such payments are made.

6. Defense Supplies Corporation is directed to amend Regulation No. 3 (Live-

stock Slaughter Payments) in accordance with this Directive.

7. The War Food Administrator is directed as soon as practicable to institute a system of allocation of live cattle to slaughterers and feeders which is adequate to maintain an equitable distribution of available supplies.

8. The Secretary of Commerce is directed to determine on the basis of facts certified by the War Food Administration and the Office of Price Administration whether the effectuation of the expressed purposes of this directive require adjustments in, or additions to, the payments contemplated by this directive because of inequities resulting from differences in transportation costs.

9. This directive shall become effective immediately, except that paragraphs 3 and 4 shall become effective on December 1, 1943, and payments under paragraph 5 shall be made with respect to cattle slaughtered on and after November 1, 1943.

Issued this 25th day of October, 1943.

FRED M. VINSON,  
*Director.*

## APPENDIX E

### DEFENSE SUPPLIES CORPORATION AMENDMENT TO MEAT SUBSIDY REGULATION (9 F. R. 1820)

[Reg. 3, Amdt. 2]

#### PART 7003—LIVESTOCK SLAUGHTER PAYMENTS

##### EXTRA COMPENSATION FOR NON-PROCESSING SLAUGHTERERS OF BEEF

Pursuant to a directive issued by the Office of Economic Stabilization on October 25, 1943 (8 F. R. 14641), Regulation No. 3 of Defense Supplies Corporation is hereby amended by adding a new § 7003.14, as follows:

§ 7003.14 *Extra compensation for non-processing slaughterers of beef*—(a) *Definitions.* (1) "Non-processing slaughterer of beef" means an unaffiliated slaughterer as hereinafter defined who during six consecutive months of 1942, sold, and who currently sells, 98% or more, measured in dressed carcass weight, of the total beef produced from cattle slaughtered by him in all his establishments, in the form of carcasses, wholesale cuts, boneless beef or ground beef.

(2) "Unaffiliated slaughterer" means a slaughterer who does not own or control a processor or purveyor of meat, and who is not owned or controlled by a processor or purveyor of meat. "Unaffiliated slaughterer" shall not include any institution, representative or agency of Federal, State, or local governments.

(3) "Processor or purveyor of meat" means a person who processes fresh beef or sells or dispenses fresh or processed meat or products containing meat, at wholesale or at retail, or in a hotel, restaurant, or other eating establishment.

(4) "Own or control" means to own or control directly or indirectly a partnership equity or in excess of ten percent of any class of outstanding stock or to have made loans or advances in excess of five percent of the other person's monthly sales.

(5) "Beef" means meat derived from the carcasses of bovine animals which does not qualify as veal as defined in § 1364.470 (a) (3) of Revised Maximum Price Regulation No. 169 issued by the Office of Price Administration.

(6) "Cattle" means bovine animals, slaughter of which results in the production of beef.

(7) "Carcasses" means beef carcasses as defined in § 1364.455 (a) (8) of Revised Maximum Price Regulation No. 169 issued by the Office of Price Administration.

(8) "Wholesale cuts" means beef wholesale cuts as defined in § 1364.455 (a) (9) of Revised Maximum Price Regulation No. 169 issued by the Office of Price Administration.

(9) "Boneless beef" means the dressed carcass equivalent of beef covered by § 1364.452 (l), (m) and (n) of Revised Maximum Price Regulation No. 169 issued by the Office of Price Administration.

(10) "Ground beef" means the dressed carcass equivalent of ground beef as defined in § 1364.452 (p) (4) of Revised Maximum Price Regulation

No. 169 issued by the Office of Price Administration.

(b) *Persons eligible for extra compensation.* Any non-processing slaughterer of beef who files an application for payment under §§ 7003.1 through 7003.5 of this regulation may file a claim for extra compensation on account of cattle slaughtered on and after November 1, 1943, for any accounting period for which he files an application for payment under §§ 7003.1 through 7003.5.

(c) *Filing claims.* (1) Claims for extra compensation shall be filed in the same manner as, for the same period as, and with, the applications for payment provided for in §§ 7003.1 through 7003.5 of this regulation.

(2) If an applicant's accounting period does not begin on November 1, 1943, he may include in his claim for extra compensation for the first full accounting period beginning after November 1, 1943, the cattle slaughtered on and after November 1, 1943 and before the beginning of the next accounting period.

(d) *Payment of claims.* Defense Supplies Corporation will make payment on approved claims for extra compensation at the rate of .8 cents a pound on the same amount of live weight of cattle slaughtered on and after November 1, 1943, on which payments are made to the applicant under §§ 7003.1 through 7003.5 of this regulation. Payments will be made in the same manner and on the same terms as payments of applications under §§ 7003.1 through 7003.11 of this regulation.

(e) This section shall become effective as of November 1, 1943.

Issued this 30th day of October 1943.

**GEORGE H. HILL, Jr.,**  
*Executive Vice President.*



## **APPENDIX F**

### **EXECUTIVE ORDER 9250, AS AMENDED**

#### **PROVIDING FOR THE STABILIZING OF THE NATIONAL ECONOMY**

By virtue of the authority vested in me by the Constitution and the statutes, and particularly by the Act of October 2, 1942, entitled "An Act to Amend the Emergency Price Control Act of 1942, to Aid in Preventing Inflation, and for Other Purposes", as amended by the Public Debt Act of 1943 (Public Law 34, 78th Cong.), as President of the United States and Commander in Chief of the Army and Navy, and in order to control so far as possible the inflationary tendencies and the vast dislocation attendant thereon which threaten our military effort and our domestic economic structure, and for the more effective prosecution of the war, it is hereby ordered as follows:

#### **TITLE I**

##### **ESTABLISHMENT OF AN OFFICE OF ECONOMIC STABILIZATION**

1. There is established in the Office for Emergency Management of the Executive Office of the President an Office of Economic Stabilization at the head of which shall be an Economic Stabilization Director (hereinafter referred to as the Director).

2. There is established in the Office of Economic Stabilization an Economic Stabilization Board with which the Director shall advise and consult. The Board shall consist of the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Bureau of the Budget, the Price Administrator, the Chairman of the National War Labor Board, and two representatives each of labor, management, and farmers to be appointed by the President. The Director may invite for consultation the head of any other department or agency. The Director shall serve as Chairman of the Board.

3. The Director, with the approval of the President, shall formulate and develop a comprehensive national economic policy relating to the control of civilian purchasing power, prices, rents, wages, salaries, profits, rationing, subsidies, and all related matters—all for the purpose of preventing avoidable increases in the cost of living, cooperating in minimizing the unnecessary migration of labor from one business, industry, or region to another, and facilitating the prosecution of the war. To give effect to this comprehensive national economic policy the Director shall have power to issue directives on policy to the Federal departments and agencies concerned.

4. The guiding policy of the Director and of all departments and agencies of the Government shall be to stabilize the cost of living in accordance with the Act of October 2, 1942; as amended by the Public Debt Act of 1943, and it shall be the duty

and responsibility of the Director and of all departments and agencies of the Government to cooperate in the execution of such administrative programs and in the development of such legislative programs as may be necessary to that end. The administration of activities related to the national economic policy shall remain with the departments and agencies now responsible for such activities, but such administration shall conform to the directives on policy issued by the Director.

\* \* \* \* \*

## TITLE V

### PROFITS AND SUBSIDIES

1. The Price Administrator in fixing, reducing, or increasing prices, shall determine price ceilings in such a manner that profits are prevented which in his judgment are unreasonable or exorbitant.

2. The Director may direct any Federal department or agency including, but not limited to, the Department of Agriculture (including the Commodity Credit Corporation and the Surplus Marketing Administration), the Department of Commerce, the Reconstruction Finance Corporation, and other corporations organized pursuant to Section 5d of the Reconstruction Finance Corporation Act, as amended, to use its authority to subsidize and to purchase for resale, if such measures are necessary to insure the maximum necessary production and distribution of any commodity, or to maintain ceiling prices, or to prevent a price rise inconsistent with the purposes of this Order.

## TITLE VI

## GENERAL PROVISIONS

1. Nothing in this Order shall be construed as affecting the present operation of the Fair Labor Standards Act, the National Labor Relations Act, the Walsh-Healey Act, the Davis-Bacon Act, or the adjustment procedure of the Railway Labor Act.

2. Salaries and wages under this Order shall include all forms of direct or indirect remuneration to an employee or officer for work or personal services performed for an employer or corporation, including but not limited to, bonuses, additional compensation, gifts, commissions, fees, and any other remuneration in any form or medium whatsoever (excluding insurance and pension benefits in a reasonable amount as determined by the Director); but for the purpose of determining wages or salaries for any period prior to September 16, 1942, such additional compensation shall be taken into account only in cases where it has been customarily paid by employers to their employees. "Salaries" as used in this Order means remuneration for personal services regularly paid on a weekly, monthly or annual basis.

3. The Director shall, so far as possible, utilize the information, data, and staff services of other Federal departments and agencies which have activities or functions related to national economic policy. All such Federal departments and agencies shall supply available information, data, and

services required by the Director in discharging his responsibilities.

4. The Director shall be the agency to receive notice of any increase in the rates or charges of common carriers or other public utilities as provided in the aforesaid Act of October 2, 1942.

5. The Director may perform the functions and duties, and exercise the powers, authority, and discretion conferred upon him by this Order through such officials or agencies, and in such manner, as he may determine. The decision of the Director as to such delegation and the manner of exercise thereof shall be final.

6. The Director, if he deems it necessary, may direct that any policy formulated under this Order shall be enforced by any other department or agency under any other power or authority which may be provided by any of the laws of the United States.

7. The Director, who shall be appointed by the President, shall receive such compensation as the President shall provide, and within the limits of funds which may be made available, may employ necessary personnel and make provision for supplies, facilities and services necessary to discharge his responsibilities.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,

*October 3, 1942.*